

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

**KATHERINE J. (KIT) STAFFORD
and KALEY REID CALDWELL**

PLAINTIFFS

VS.

CAUSE NO. 1:22CV149-SA-DAS

**SCHWARTZ & ASSOCIATES, P.A.;
A IS FOR ADVERTISING LLC; and POND5, INC.**

DEFENDANTS

JURY TRIAL DEMANED

COMPLAINT

This is an action to recover damages for willful violation of the copyright laws of the United States. The following facts support the action:

1. Plaintiffs KATHERINE J. (KIT) STAFFORD and KALEY REID CALDWELL are adult resident citizens of Tupelo, Lee County, Mississippi.

2. Defendant SCHWARTZ & ASSOCIATES, P.A., is a professional association, which may be served with process upon its registered agent, Richard B. Schwartz, at 134 East Amite Street, Jackson, Mississippi 39201.

Defendant A IS FOR ADVERTISING LLC, is a South Carolina corporation doing business in the State of Mississippi. Defendant may be served with process through its registered agent, Allison Hilton, via certified U.S. Mail, at 239 Newberry Street Southwest, Aiken, South Carolina 29801. Defendant is in the business of promoting businesses through advertising.

Defendant POND5, INC., is a Delaware corporation doing business in the State of Mississippi, with its principal office address in New York. Defendant may be served with process

through its registered agent, Corporation Service Company, via certified U.S. Mail, at 80 State Street, Albany, New York 12207-2543. Defendant is in the business of producing and selling videos used for advertising.

3. This Court has federal question jurisdiction under 28 U.S.C. § 1331, and has jurisdiction under 28 U.S.C. § 1338 for all actions “relating to . . . copyrights.” More than seventy-five thousand dollars (\$75,000.00) is in controversy.

4. Venue is in proper in the Northern District of Mississippi, because a substantial portion of the wrongs involved in this case occurred in Lee County, Mississippi, in the Northern District of Mississippi.

5. On March 30, 2019, Plaintiffs registered a copyright on a mural, which they had created. (*See* Certificate of Registration, attached hereto as Exhibit “A.”)

6. On February 13, 2022, during Super Bowl LVI, Defendant Schwartz & Associates, P.A., without permission, utilized the mural, which Plaintiffs have the exclusive right to use by virtue of their copyright, in its commercial. Defendant Schwartz & Associates, P.A., ran the copyrighted work in its markets in Hattiesburg, Jackson, Meridian, Columbus, Tupelo, and possibly others.

7. Defendant Schwartz & Associates, P.A., also utilized the copyrighted work on YouTube, possibly on other social media, and on the Richard Schwartz website.

8. Defendant Schwartz & Associates, P.A., obtained the copyrighted mural from Defendant A Is for Advertising LLC, which also did not have permission to use it.

9. Defendant A Is for Advertising LLC, obtained the video from Defendant Pond5, Inc. Defendant Pond5, Inc., also did not have Plaintiffs’ permission to use their copyrighted work.

10. By virtue of the unauthorized use of Plaintiffs' art, Defendants Schwartz & Associates, P.A.; A Is for Advertising LLC; and Pond5, Inc., are jointly and severally liable to Plaintiffs for statutory damages under the terms of 17 U.S.C.A. § 504(c) in an amount of not more than \$30,000.00 for each use.

11. Additionally, the use of the copyrighted work was "willful," as defined in 17 U.S.C.A. § 504(c)(2). The infringers cannot sustain their burden of proving that they had no reason to believe that this act constituted an infringement of copyright. In fact, none of the Defendants made any effort to determine whether or not the work was copyrighted before utilizing it.

12. Further, Plaintiffs are entitled to reasonable attorneys' fees pursuant to 28 U.S.C.A. § 505.

REQUEST FOR RELIEF

Plaintiffs, therefore, request statutory damages, damages for willfulness, and reasonable attorneys' fees.

RESPECTFULLY SUBMITTED, this the 11th day of October, 2022.

KATHERINE J. (KIT) STAFFORD
and KALEY REID CALDWELL, Plaintiffs

By: /s/ JIM WAIDE

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ATTORNEYS FOR PLAINTIFFS

STATE OF MISSISSIPPI

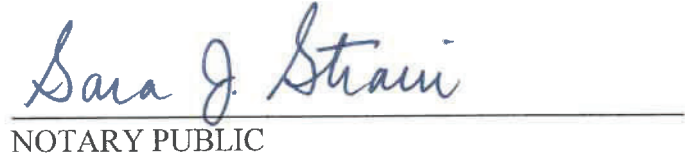
COUNTY OF LEE

PERSONALLY came and appeared before me, the undersigned authority in and for the aforesaid jurisdiction, the within named **KATHERINE J. (KIT) STAFFORD**, who, after being first duly sworn, states under oath that the facts contained in the above and foregoing **COMPLAINT** are true and correct as stated therein.


KATHERINE J. (KIT) STAFFORD

GIVEN under my hand and official seal of office on this the 6th day of October, 2022.




NOTARY PUBLIC

My Commission Expires: March 10, 2026

STATE OF MISSISSIPPI


COUNTY OF LEE

PERSONALLY came and appeared before me, the undersigned authority in and for the aforesaid jurisdiction, the within named **KALEY REID CALDWELL**, who, after being first duly sworn, states under oath that the facts contained in the above and foregoing **COMPLAINT** are true and correct as stated therein.


KALEY REID CALDWELL

GIVEN under my hand and official seal of office on this the 6th day of October, 2022.




NOTARY PUBLIC

My Commission Expires: March 10, 2026